

§ 105-244.4. Reduction of certain sales tax assessments.

(a) Reduction – The Secretary may reduce an assessment against a taxpayer who requests relief for State and local sales and use taxes in the amount as provided in this section and waive any penalties imposed as part of the assessment when the assessment is the result of an audit of the taxpayer by the Department and all of the following apply:

- (1) The taxpayer remitted to the Department all of the sales and use taxes it collected during the audit period.
- (2) The taxpayer had not been informed by the Department in a prior audit to collect sales and use taxes in the circumstance that is the basis of the assessment, as reflected in the written audit comments of the prior audit.
- (3) The taxpayer had not requested and received from the Department a private letter ruling advising to collect sales and use taxes in the circumstance that is the basis of the assessment.
- (4) The assessment is based on the incorrect application of one or both of the following areas of the sales and use tax statutes:
 - a. The failure to collect sales tax on separately stated linen charges where the linens are furnished by a facilitator, rental agent, or other person and the charges are part of the gross receipts derived from the rental of the accommodation taxed in accordance with G.S. 105-164.4F.
 - b. The failure to pay sales or use tax on the rental of linens used by a facilitator, rental agent, or other person in providing the rental of an accommodation taxed in accordance with G.S. 105-164.4F where the facilitator, rental agent, or other person issued a certificate of exemption or the required data elements per G.S. 105-164.28 to the lessor.
- (5) The taxpayer meets one of the following:
 - a. The taxpayer received a proposed assessment dated on or before August 15, 2017, did not file a request for review, paid the tax due, and files a written request with the Secretary on or before December 29, 2017, to request the amount of sales or use taxes be reduced as provided in this section citing the specific reasons therefor.
 - b. The taxpayer received a proposed assessment dated on or before September 30, 2017, timely filed a request for review, and files a written request with the Secretary on or before December 29, 2017, to request the amount of sales or use taxes be reduced as provided in this section citing the specific reasons therefor. The Department does not need to take further action on the taxpayer's request for review unless the taxpayer states in writing, when filing a request for reduction under this section, that the reduction does not resolve the taxpayer's objection to the proposed assessment and that the taxpayer wishes to continue the Departmental review.
 - c. The taxpayer receives a proposed assessment after September 30, 2017, and timely files a request for review as provided in G.S. 105-241.11 and files a written request with the Secretary no later than 45 days from the date of the notice of the proposed assessment to request the amount of sales or use taxes be reduced as provided in this section citing the specific reasons therefor.

(b) Amount. – A sales and use tax assessment against a taxpayer may be reduced by ninety percent (90%) of the total amount of sales and use tax assessed. The Secretary may also

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waive all penalties that were imposed as part of the assessment. A reduction of an assessment under this section and the waiver of penalties imposed as part of the assessment apply only to the amount of the assessment attributable to the incorrect application of one or both of the areas of the law listed in subdivision (a)(4) of this section.

(c) Application. – This section applies to the following for a tax period ending prior to January 1, 2018:

- (1) A proposed assessment or portion of a proposed assessment.
- (2) An assessment that becomes collectible under G.S. 105-241.22.
- (3) A pending request for review case.
- (4) This section does not authorize a refund for sales or use taxes that were originally collected and remitted to the Department.

(d) Expiration. – This section is not applicable to an assessment attributable to the incorrect application of one or both areas listed in subdivision (a)(4) of this section for a period beginning on or after January 1, 2018. (2017-204, s. 2.8A; 2017-212, s. 7.1(a).)